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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,009	02/25/2004	Shaul Goldenberg	PT-2037001	9728

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EXAMINER

PUROL, DAVID M

ART UNIT PAPER NUMBER

3634

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/785,009	GOLDENBERG ET AL.	
	Examiner	Art Unit	
	David M. Purol	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02252004;04232004</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's election of Species II in the reply filed on February 23, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. On page 1, the status of the listed application is to be updated. Correction is required.

3. The abstract of the disclosure is objected to because of the inclusion of legal phraseology "comprising" and "said". Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. On page 23, line 20 reference is made to Figure 110, however, there is no figure 110. On page 23, line 28 has omitted a brief description of Figure 12D. On page 24, line 1 has omitted a brief description of Figure 13D.

Correction is required.

5. Claims 2,4,6,8,9/8,10/9/8,11/9/8,12/9/8,14,16,18,19,21, 22/21,23,24, 25/4, 25/21,26/4,26/8,27/4, 27/21,28/4,28/21,29/4,29/8,30/4,30/21,31/4,31/21,32,33,35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2,4,6,8,14,16,18,21,23,35 each recite "the friction part" for which there is no antecedent basis.

Claim 19 is indefinite in its entirety for the claims of which it refers indigenously recites the framing sections, housing, and the roll screen in an assembled state thereby precluding the limitation of a kit of components.

Claim 23, line 3 recites "the framing members", "the corners", the screen frame" for which there is no antecedent basis.

Claim 32, line 1 recites "(preferably a wind retainer)" which is an indefinite recitation.

Claim 33, lines 4 and 6 recite "the part" and "the hollow" for which there is no antecedent basis. Lines 7-8 are indefinite in their entirety. Furthermore, it is not known if the applicant is claiming the hollow shaft or the support bracket as elements of the invention. While lines 1-2 state that the torque tube is for fastening to a hollow shaft and for engaging a support bracket, lines 2-3 states that the torque tube is free wheeling on the support bracket and line 4 states that the part engages the support bracket which can only be accurate recitations if the support bracket is a positively claimed element.

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Likewise, lines 6-8 recite positively characteristics of the hollow shaft which can only be an accurate recitation if the hollow shaft is a positively claimed element.

Claim 35, line 5 recites "said braking elements" wherein there is no antecedent basis for a plurality of braking elements. Furthermore, it is not known if the applicant is claiming the hollow shaft as an element of the invention. While line 1 states that the speed control braking assembly is for a rotating hollow shaft, line 3 states that the housing for the element is coupled to the shaft and lines 4-5 state that the freewheeling torque tube is coupled to the housing and the shaft and further lines 6-8 set forth characteristics of the shaft which can only be accurate recitations if the hollow shaft is a positively claimed element of the invention.

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s).

See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to

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be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1,3,5,7,9/7,10/9/7,11/9/7,12/9/7,13,15,17,20,22/20,25-31 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1,2,3,4,9,10,11,13 of U.S. Patent No. 6,701,994 in view of Dotson et al. While the invention as defined by the claims 1,2,3,4,9,10,11,13 of U.S. Patent No. 6,701,994 do not set forth the use of a miterless corner connector, Dotson et al disclose a screen frame comprising a miterless corner connector 16,38,60,66, wherein, to incorporate this teaching into the invention as defined by claims 1,2,3,4,9,10,11,13 of U.S. Patent No. 6,701,994 for its explicit purpose of fastening frame sections together would have been obvious to one of ordinary skill in the art.

7. Claims 2,4,6,8,9/8,10/9/8,11/9/8,12/9/8,14,16,18,21,22/21,25-31 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1,2,3,4,9,10,11,13 of U.S. Patent No. 6,701,994 in view of Mase. While the invention as defined by the claims 1,2,3,4,9,10,11,13 of U.S. Patent No. 6,701,994 do not set forth the use of a speed control braking assembly, Mase discloses a speed control braking assembly comprising a braking element 22, a housing 25, a friction member 23, a torque tube 1, wherein to incorporate this teaching into the invention as defined by the claims 1,2,3,4,9,10,11,13 of U.S. Patent No. 6,701,994 for the purpose of

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controlling the rotational movement screen would have been obvious to one of ordinary skill in the art.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 32 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Burns. Burns discloses the claimed retainer 11,12.

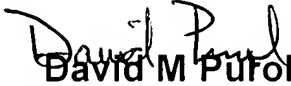
9. Claim 34 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Dotson et al. Dotson et al disclose a screen frame comprising the claimed miterless corner connector 16,38,60,66.

10. Claim 35 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Mase. Mase discloses a speed control braking assembly comprising a braking element 22, a housing 25, a friction member 23, a torque tube 1.

11. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Sugiyama et al, Benthin, Grubb et al, Welfonder, Poppema, Hudoba et al, Magee, Desrochers, Walsh.

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12. Any inquiry concerning this communication should be directed to David M. Purol at telephone number (571) 272-6833.


David M Purol
Primary Examiner
Art Unit 3634

DMP
(571) 272-6833
May 2, 2006